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FISCAL IMPACT STATEMENT

LS 6963

BILL NUMBER: SB 519

NOTE PREPARED: Feb 1, 2005

BILL AMENDED:

SUBJECT: Lake and boating issues.

FIRST AUTHOR: Sen. Weatherwax

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill extends the definition of "taxable marine facility" for purposes of motor fuel taxes to facilities located on any body of water under the state's jurisdiction. The bill requires a child less than 13 years of age to wear a personal flotation device while on a boat. It requires a boat or personal watercraft that is towing a person to have enough space for the operator, observer, and person being towed. The bill requires that a person who performs certain activities concerning water levels, shorelines, and lake beds along a lake or within ten feet of a lake obtain a permit from the Department of Natural Resources (DNR). It directs the Natural Resources Commission to adopt rules. It also makes conforming changes. The bill repeals the former laws concerning permits to change water levels, shorelines, and lake beds. (The introduced version of this bill was prepared by the Natural Resources Study Committee.)

Effective Date: July 1, 2005.

Explanation of State Expenditures: *DNR Permits and Adopting Rules.* The bill adjusts the conditions under which a person must obtain a DNR permit in order to excavate; fill; or place, modify, or repair a temporary or permanent structure over, along, or lakeward of the shoreline or waterline of a public freshwater lake. The bill also requires the Natural Resources Commission to adopt rules to implement the provisions of the bill. The DNR and the Commission will be able to implement the above without additional funding.

Explanation of State Revenues: *DNR Permits.* The bill adjusts the conditions under which a person must obtain a DNR permit in order to excavate; fill; or place, modify, or repair a temporary or permanent structure over, along, or lakeward of the shoreline or waterline of a public freshwater lake. If the lowest point of a structure or excavation would be below the elevation of the shoreline or waterline, the person must not place

a permanent structure or conduct an excavation within 10 feet landward of the shoreline or waterline, as measured perpendicularly from the shoreline or waterline of a public freshwater lake.

Under existing law, seawalls can be installed landward within 10 feet of the shoreline. The installation of concrete seawalls within 10 feet of the shoreline can result in the tide washing away the soil and habitat between the seawall and the shoreline. As a result, the shoreline becomes the seawall. In this case, the shoreline is changed without a permit. The bill may result in the DNR issuing additional permits.

The fee for the permit remains at \$100. Fee revenue could increase as a result of this bill. Fees collected from permits are deposited in the Land and Water Resources Fund, which is used to fund local soil and water conservation programs; conduct research necessary for beneficial development of water resources; and to offset the costs to the Division of Water of administering the permit program.

(Revised) *Taxable Marina*. Changing the definition of “taxable marine facility” will mean additional marine facilities will be included in the collection of the \$0.18 per gallon Marine Fuel Tax. Revenue from the Marine Fuel Tax is deposited into the Fish and Wildlife Fund of the Department of Natural Resources.

The Department of State Revenue (DOR) reports that currently there are 46 taxpayers who have applied for and received exemption permits for gasoline tax/marine fuel. The DOR does not collect gallonage data or information from the exempted marinas. The DOR says that the exempted marine facilities are located on the Ohio River and Lake Michigan.

The Federal Highway Administration (FHWA) reports that in CY 2003, there were approximately 14.7 M gallons of gasoline consumed as marine fuel in Indiana. The DOR reports that on average in 2002 and 2003, approximately 400,000 gallons of gasoline are already taxed as marine fuel. This leaves about 13.8 M gallons which are not currently taxed. This could result in up to \$2.5 M annually in additional revenue that would be distributed to the Fish and Wildlife Fund. [Note: To the extent that the FHWA data on marine consumption reflects gasoline sold from highway pumps but used for boats, the estimated revenue will already be collected and distributed for highways. Tax collection and distribution based on these gallons will not be affected by this bill, and the additional revenue estimated for distribution to the Fish and Wildlife Fund will be reduced. For example, if only 20% of the marine fuel currently consumed in Indiana represents previously untaxed fuel, then the new revenue to the Fish and Wildlife Fund would be \$0.5 M.]

Background Information on the Fish and Wildlife Fund. Revenue from the Marine Fuel Tax has averaged approximately \$84,000 per year over the last five fiscal years. Money in the Fish and Wildlife Fund is used for paying the operating expenses of the Divisions of Law Enforcement and Fish and Wildlife, and for protecting and propagating game, fish, and birds in Indiana. Monies deposited in the fund attributable to distribution of court fees shall be used for the Turn in a Poacher Program and the reward system established under the program. Monies deposited in the fund attributable to the transfer from the Lifetime License Trust Fund shall be used for maintaining the automated point-of-sale licensing system.

Boating Issues. This bill requires a child less than 13 years of age to wear a personal flotation device while on a boat. The bill requires a boat or personal watercraft that is towing a person to have enough space for the driver, observer, and person being towed. Violations of either of the two provisions constitute a Class C infraction. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70

would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Boating Issues.* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of State Revenue; Department of Natural Resources.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Auditor of State Revenue Trial Balance for FY 2000-2004; Matthew M. Hopper, Deputy Director Department of Natural Resources, 317-233-6904; Linda Dollens, Administrator, Returns Processing Center, Department of State Revenue, 317-615-2501.

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